STATE OF HAWAII—DEPARTMENT OF TAXATION

1998

(REV. 1998)

INSTRUCTIONS FOR FORM N-70NP

EXEMPT ORGANIZATION BUSINESS INCOME TAX RETURN

(Section references are to the Internal Revenue Code, unless otherwise indicated)

General Instructions

Filing Requirements

Required Attachment.—A copy of the organization's federal Form 990-T as filed with the Internal Revenue Service MUST be attached to the Form N-70NP filed with Hawaii.

Caution.—The mere attachment of a copy of the federal Exempt Organization Business Income Tax Return, Form 990-T, will not be acceptable as a substitute for fully completing the Hawaii Exempt Organization Business Income Tax Return, Form N-70NP.

Who Must File.—Any organization exempt under section 501(a) must file Form N-70NP if it has Hawaii gross income from an unrelated trade or business of $1,000 or more. Gross income is gross receipts minus the cost of goods sold. An organization must file this return if it must file federal Form 990-T. Form N-70NP is not required if the organization files any other federal 990 form (e.g., 990, 990-C, 990-EZ, etc.).

Fiduciaries for IRAs and MSAs described in sections 408(a) and 220(d) that have $1,000 or more of Hawaii unrelated trade or business gross income must file Form N-70NP.

Section 235-2.4(h), HRS, adopted sections 512 to 514 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code. Further, for a person described in section 401 or 501, as modified by section 235-2.3, HRS, the tax imposed by section 235-51 or 235-71, HRS, shall be imposed upon the person's unrelated business taxable income.

However, a section 501(c)(1) corporation that is an instrumentality of the United States and both organized and exempted from tax by an Act of Congress, does not have to file. (See also section 235-7(a)(1), HRS.)

If the organization is a shareholder in a Regulated Investment Company, and is filing Form N-70NP only to obtain a refund of income tax paid on undistributed long-term capital gains, complete the heading and signature areas, and enter the amount of credit on the appropriate lines. Also, indicate at the top of the return, "Claim for Refund."

What is an Unrelated Trade or Business.—An unrelated trade or business is any trade or business that is regularly carried on, and that is not substantially related to the organization's exempt purpose or function (aside from the need of the organization for income or funds or the use it makes of the profits); or generally, for section 501(c)(7), (9), or (17) organizations, from non-members with certain modifications (see section 512(a)(3)(A)); or for a section 511(a)(2)(B) state college or university, to exercising or performing any purpose or function described in section 501(c)(3).

An unrelated trade or business is not a trade or business:

(1) In which substantially all the work is performed for the organization without compensation; or

(2) That is carried on by a section 501(c)(3) or 511(a)(2)(B) organization mainly for the convenience of its members, students, patients, officers, or employees; or

(3) That sells items of work-related equipment and clothes, and items normally sold through vending machines, food dispensing facilities or by snack bars, by a local association of employees described in section 501(c)(4), organized before May 27, 1969, if the sales are for the convenience of its members at their usual place of employment; or

(4) That sells merchandise substantially all of which was received by the organization as gifts or contributions; or

(5) That consists of qualified public entertainment activities regularly carried on by a section 501(c)(3), (4), or (5) organization as one of its substantial exempt purposes (see section 513(d)(2) for the meaning of qualified public entertainment activities); or

(6) That consists of qualified convention or trade show activities regularly conducted by a section 501(c)(3), (4), (5), or (6) organization as one of its substantial exempt purposes (see section 513(d)(3) for the meaning of qualified convention and trade show activities); or

(7) That furnishes one or more services described in section 501(e)(1)(A) by a hospital to one or more hospitals subject to conditions in section 513(e); or

(8) That consists of qualified pole rentals (as defined in section 501 (c)(12)(D)), by a mutual or cooperative telephone or electric company; or

(9) That includes activities relating to the distribution of low-cost articles, each costing $6.90 or less by an organization described in section 501 and contributions to which are deductible under section 170(c)(2) or (3) if the distribution is incidental to the solicitation of charitable contributions; or

(10) That includes the exchange or rental of donor or membership lists between organizations described in section 501 and contributions to which are deductible under section 170(c)(2) or (3); or

(11) That consists of bingo games as defined in section 513(f). Generally, a bingo game is not included in any unrelated trade or business if:

  (a) Wagers are placed, winners determined, and prizes distributed in the presence of all persons wagering in that game;

  (b) The games do not compete with bingo games conducted by for-profit businesses in the same jurisdiction; and

  (c) The games do not violate State or local law; or

(12) That consists of soliciting and receiving qualified sponsorship payments that are solicited or received after December 31, 1997. Generally, qualified sponsorship payment means any payment to a tax-exempt organization by a person engaged in a trade or business in which there is no arrangement or expectation of any substantial return benefit by that person — other than the use or acknowledgment of that person's name, logo, or product lines in connection with the activities of the tax-exempt organization. See section 513(i) for more information.

A trade or business is any activity carried on for the production of income from selling goods or performing services. An activity does not lose its identity as a trade or business merely because it is carried on within a larger group of similar activities which may or may not be related to the exempt purpose of the organization. If, however, an activity carried on for profit is an unrelated trade or business, no part of it can be excluded from this classification merely because it does not result in profit.

Not substantially related means that the activity that produces the income does not contribute importantly to the exempt purposes of the organization, other than the need for funds, etc. Whether an activity contributes importantly depends in each case on the facts involved.

When to File.—Generally, you must file Form N-70NP by the 20th day of the 4th month after the end of the organization's tax year.

Extension.—Corporations may request an automatic 6-month extension of the time to file Form N-70NP by filing Form N-301. The use of federal form 7004 will be allowed as a substitute for Form N-301, provided amounts are for Hawaii income and tax liability.

Trusts may request an extension of the time to file by filing Form N-100. Trusts will be granted an automatic 3-month extension of time to file. The use of federal Form 8736 will be allowed as a substitute for Form N-100, provided amounts are for Hawaii income and tax liability.

Penalties and Interest

Late filing of return.—Unless the organization can show reasonable cause for the delay, it may be charged a penalty for not filing a return by its due date, including any extensions. The penalty is 5% of the net amount due for each month or part of a month that the return is not filed, up to a maximum of 25%.

Failure to pay after filing timely returns.—Unless the organization can show reasonable cause for the delay, it may be charged a penalty for late payment of tax. The penalty is 20% of the net amount due if the tax is not completely paid within 60 days of the prescribed filing date.

These penalties are in addition to any interest charged on underpayment or nonpayment of tax.

Interest.—Interest is accrued at the rate of 2/3 of 1% for each month or fraction of a month on taxes that are not paid by their due date, even if an extension of the time to file is granted.

Interest will be computed on the sum of tax due and penalties imposed.

Where to File

If the principal office of the organization is located in the ▼	Send the return to the following address ▼
City and County of Honolulu	Oahu District Office P.O. Box 3559 Honolulu, HI 96811-3559
Counties of Maui and Kalawao	Maui District Office P.O. Box 913 Wailuku, HI 96793-0913
County of Hawaii	Hawaii District Office P.O. Box 1377 Hilo, HI 96721-1377
County of Kauai	Kauai District Office P.O. Box 1688 Lihue, HI 96766-5688

Consolidated Returns.—The consolidated return provisions of section 1501 do not apply to exempt organizations, except for organizations having title holding companies. If a title holding corporation described in section 501(c)(2) pays any amount of its net income for a tax year to an organization exempt from tax under section 501(a) (or would except that the expenses of collecting its income exceeded that income), and the corporation and organization file a consolidated return as described below, then treat the title holding corporation as being organized and operated for the same purposes as the other exempt organization (in addition to the purposes described in section 501(c)(2)).

Two organizations exempt from tax under section 501(a), one a title holding company, and the other earning income from the first, will be includible corporations for section 1504(a). If the organizations meet the definition of an affiliated group, and the other relevant provisions of Chapter 6 of the Internal Revenue Code, then these organizations may file a consolidated return. The parent organization must attach Form N-304, Affiliations Schedule, to the consolidated return. For the first year a consolidated return is filed, the title holding company must attach Form N-303, Authorization and Consent of a Subsidiary Corporation to be Included in a Consolidated Income Tax Return.

See federal Regulations section 1.1502-100 for more information on consolidated returns.

Accounting Methods.—You must figure taxable income using the method of accounting regularly used in keeping the organization's books and records. The method used must clearly reflect income. See section 446.

Unless the law specifically permits, you may not change the method of accounting used to report income in earlier years (in whole or in part) without first getting consent on federal Form 3115, Application for Change in Accounting Method. If a change in accounting method is made, attach an approved copy of federal Form 3115 to the first return affected by such a change.

Rounding Off to Whole-Dollar Amounts.—You may show the money items on the return and accompanying schedule as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

At Risk Provisions.—For the rules limiting a loss to the amount at risk for certain trade or business and production of income activities, see section 465.

Specific Instructions

Period to be covered by 1998 Return.—File your 1998 return for calendar year 1998 and fiscal years beginning in 1998. If the return is for a fiscal year, fill in the tax year space in the form heading. To change an accounting period, use federal Form 1128, Application for Change in Accounting Period.

Page 1, Form N-70NP

Name, Address, and Employer Identification Number.—The name and address on Form N-70NP should be completely shown.

Block A.—Enter the organization's Federal Employer's Identification Number (FEIN) in this block.

Block B.—An employees' trust described in section 401(a) and exempt under section 235-9, HRS, must put its Hawaii G.E./Use Identification Number in this block.

Block C.—Check the appropriate box to indicate the organization's legal structure—i.e., corporation or charitable trust.

Lines 1 thru 8.—Enter the appropriate figures from the organization's federal Form 990-T which must be attached to this return. If the organization has taxable net capital gain income, attach a copy of Hawaii Schedule D (N-30) if a corporation, or Hawaii Schedule D (N-40), if a trust.

Note: The amount on line 6 may not equal the sum of lines 1 through 5.

Tax Computations

Line 9.—Corporations.—If you are a trust, skip to line 10 to figure your tax. If you are filing for an organization other than a trust, the corporate tax rates apply.

If the corporation has no taxable net capital gains, the tax is computed using the following rates:

Over—	But not Over—	Enter on Line 7	Of the amount Over—	Reduced by—
$ 0	$ 25,000	4.4%	$ 0	$ 0
25,000	100,000	5.4%	25,000	250
100,000	—	6.4%	100,000	1,250

If the corporation has taxable net capital gains, the tax is the lesser of:

1. The tax computed using the above rates applied to the total unrelated business income (line 8); or
2. The sum of:
   a. 4% of the taxable net capital gains; and
   b. The tax computed on total unrelated business income less taxable net capital gain using the above rates.

Complete Part I of the TAX COMPUTATION SCHEDULE on page 2 of the return.

Line 10.—Trusts.—Trusts exempt under section 501(a) which otherwise would be subject to section 235-4, HRS, are taxed at trust rates as determined under section 235-51(d), HRS. This applies to employees' trusts that qualify under section 401(a).

If the trust has a calendar tax year and has no taxable net capital gains, the tax is computed using the Trusts' Tax Rate Schedule I on page 4. If the trust has taxable net capital gains, see Part II of the TAX COMPUTATION SCHEDULE on page 2 of the return.

Complete Part II of the TAX COMPUTATION SCHEDULE on page 2 of the return.

A trust, with a tax year other than a calendar year, whose tax year begins in 1998 and ends in 1999, must compute the trust's tax liability for the year using Part II of the TAX COMPUTATION SCHEDULE and the worksheet on page 4.

Line 11.—Recapture of Capital Goods Excise Tax Credit.—If property for which a credit has been taken ceases to be eligible property or is disposed of, recapture of all or part, of the credit received may be necessary. See the instructions for Form N-312, Part II for more information. Enter the amount of any credit recapture on line 11.

Line 13(a).— Credit for Energy Conservation.—Each corporate resident taxpayer who files a Form N-70NP for 1998 may claim a tax credit against its income tax liability for a solar or wind energy system, heat pump, or ice storage system installed and placed in service in 1998. Additions to existing systems (e.g., *additional* solar energy panels) and systems for a second home qualify for this credit. The cost of repairs to existing systems (e.g., *replacing* solar energy panels), however, **do not** qualify for this credit. The tax credit shall apply only to the actual cost of the solar or wind energy system, heat pump, or ice storage systems, including their accessories and installation, and shall not include the cost of consumer incentive premiums unrelated to the operation of the system or offered with the sale of the system or heat pump (such as "free gifts", offers to pay electricity bills, or rebates).

The tax credit may be claimed for the following energy conservation systems installed and placed in service after 12/31/89 (12/31/90 for ice storage systems), but before 7/1/2003:

Type of Energy Conservation System	Tax Credit Rate
1. **Wind energy systems**	20% of the actual cost of the system.
2. **Solar energy systems**	
a. New and existing single family residential buildings	The lesser of 35% of the actual cost of the system or $1,750.
b. New and existing Multi-unit buildings used primarily for residential purposes.	Per building unit: The lesser of 35% of each unit's actual cost of the system or $350.
c. New and existing hotel, commercial and industrial facilities.	35% of the actual cost of the system.
3. **Heat pumps**	
a. New and existing single family residential buildings	The lesser of 20% of the actual cost of the system or $400.
b. New and existing Multi-unit buildings used primarily for residential purposes.	Per building unit: The lesser of 20% of each unit's actual cost of the system or $200.
c. New and existing hotel, commercial and industrial facilities.	20% of the actual cost of the system.
4. **Ice storage systems**	50% of the actual cost of the system.

If federal energy tax credits for systems similar to any of those above are established after June 30, 1998, but before July 1, 2003, then the state tax credit shall be reduced by the amount of the applicable federal energy tax credit.

Tax credits that exceed your income tax liability are not refunded but may be used as a credit against your income tax liability in subsequent years until exhausted.

To determine this tax credit, use Form N-306 and attach the form to the income tax return Form N-70NP and enter on page 1, line 13(a), the amount of the credit claimed.

Line 13(b).—Credit allowed for taxes paid to a state or foreign country by a resident trust.—If a residential trust derived income from sources without Hawaii and paid a net income tax to a state or foreign country, a credit may be claimed against the Hawaii income tax. A credit is allowable against the Hawaii income tax only if the tax paid to a state or foreign country was based on net income of the same taxable year and only if the income taxed by the state or foreign country was derived from sources without Hawaii. Intangible personal property of a resident trust has a situs within Hawaii, therefore, income from such property is derived from within and not from without Hawaii and no credit may be allowed for taxes paid to a state or foreign country based on such income. (However, or in the rare case of a separate business situs there may be an exception to this rule.) To obtain a credit against the Hawaii tax, a copy of the return filed with a state or foreign country must be furnished as well as a receipt or other evidence to substantiate payment of the tax. If any taxes paid are at any time refunded, the Hawaii State Tax Collector must be notified promptly of such refund. The Hawaii Income Tax Law allows no credit to a nonresident trust for the taxes paid to a state or foreign country. **Limitations of credit—see Department of Taxation Rules — §18-235-55.**

Line 13(c).—Enterprise Zone Tax Credit.—A qualified enterprise zone business is eligible to claim a credit for a percentage of taxes due the State attributable to the conduct of business within a zone and a percentage of the amount of unemployment insurance premiums paid based on the payroll of employees employed at the business firm establishments in the same zone. The applicable percentage is 80% the first year; 70% the second year; 60% the third year; 50% the fourth year; 40% the fifth year; 30% the sixth year; and 20% the seventh year. This credit is not refundable and any unused credit may NOT be carried forward. Attach Form N-756, Enterprise Zone Tax Credit, to support your claim for this credit.

Line 13(d).—Low-Income Housing Tax Credit.—Hawaii's low-income housing tax credit is equal to 30% of the federal credit. The federal credit must be claimed in order to claim the Hawaii credit. Attach Form N-586, Hawaii Low-Income Housing Tax Credit, to the income tax return on which the credit is claimed.

Contact the Housing and Community Development Corporation of Hawaii for qualifying requirements and further information.

Line 13(e).—Credit for Employment of Vocational Rehabilitation Referrals.— The amount of the tax credit for the taxable year shall be equal to twenty per cent of the qualified first-year wages for that year. The amount of the qualified first-year wages which may be taken into account with respect to any individual shall not exceed $6,000.

"Qualified wages" means the wages paid or incurred by the employer during the taxable year to an individual who is a vocational rehabilitation referral and more than one-half of the wages paid or incurred for such individual is for services performed in a trade or business of the employer.

"Qualified first-year wages" means, with respect to any vocational rehabilitation referral, qualified wages attributable to service rendered during the one-year period beginning with the day the individual begins work for the employer.

The credit allowed shall be claimed against net income tax liability for the taxable year. A tax credit which exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

Refer to Form N-884 for further information.

Line 16(b).—Estimated Tax Payment. — Enter the total estimated tax payments made for the tax year with Form N-3, Declaration of Estimated Income Tax for Corporations or N-5, Declaration of Estimated Income Tax for Estates and Trusts.

Line 16(c).—Tax Paid With Automatic Extension of Time. — Enter the tax paid with Form N-100 or N-301, Application for Automatic Extension of Time to File Hawaii Form N-70NP or federal Form 7004 or 8736.

Line 16(d).—Credit of Shareholder of Regulated Investment Company. — A shareholder of a regulated investment company is allowed a credit of 4.0 percent of the amount of capital gains which by section 852(b)(3)(D) of the Internal Revenue Code is required to be included in the shareholder's return and on which there has been paid to the State by the regulated investment company the tax of 4.0 percent. Enter the credit deemed paid by the regulated investment company.

Line 16(e).—Capital Goods Excise Tax Credit. — A 4% credit is available to Hawaii businesses on qualifying business property acquired and placed in service during the taxable year. See Form N-312 for more information.

Line 16(f).—Fuel Tax Credit for Commercial Fishers. — Each principal operator of a commercial fishing vessel may claim an income tax credit against the corporate income tax for the year for certain fuel taxes paid during the year. The tax credit shall be an amount equal to the fuel taxes imposed under section 243-4(a), HRS, and paid by the principal operator during the year. Taxpayers claiming this credit must complete and attach Form N-308 or N-163A to the return.

Line 16(g).—Motion Picture and Film Production Income Tax Credit. — For taxable years beginning after December 31, 1996, a Motion Picture and Film Production Income Tax Credit is available to taxpayers subject to the imposition of Hawaii's income tax and is deductible from the taxpayer's net income tax liability. The tax credit allowable is comprised of two parts: 1) an amount up to 4% of the costs incurred in the State in the production of motion picture or television films, plus 2) an amount up to 6% of the costs incurred in the State (7.25% after 1998) in the production of motion picture or television films for actual expenditures for transient accommodations. Refer to Form N-316 for further information.

Line 16(h).—Hotel Remodeling Tax Credit. — For taxable years beginning after December 31, 1996, a Hotel Remodeling Tax Credit is available to taxpayers subject to the imposition of Hawaii's income and transient accommodations taxes and is deductible from the taxpayer's net income tax liability. The tax credit will not be available for taxable years beginning after December 31, 1998. The amount of the tax credit allowable is 4% of the renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii. The total amount of the credit is limited to an amount not exceeding 10% of the transient accommodations tax paid by the taxpayer in the preceding taxable year that is attributable to the qualified hotel facility. See Form N-314 for more information.

Line 17.—Estimated Tax Penalty. — An organization or a trust that fails to make estimated tax payments when due may be subject to an underpayment penalty for the period of underpayment. Form N-210, Underpayment of Estimated Tax by Individuals, Fiduciaries, and Exempt Organizations, is used by a trust, and N-220, Underpayment of Estimated Tax by Corporations, is used by a corporation to figure the amount of the penalty. If you attach Form N-210 or N-220, be sure to check the appropriate box on line 17.

Line 18.—Tax Due.—The tax due must be paid in full when the return is filed. Attach your check or money order for the full amount payable to the "HAWAII STATE TAX COLLECTOR" in U.S. dollars drawn on any U.S. bank. Write your Federal Employer I.D. No. and the words "1998 Form N-70NP" on it.

Signature

Corporation.—The return must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, trustee, or by any other corporate officer authorized to sign. A receiver, trustee, or assignee must sign and date any return he or she is required to file on behalf of the organization.

Trust.—The return must be signed and dated by the individual fiduciary, or by the authorized officer of the trust receiving or having custody, or control and management of the income of the trust. If two or more individuals act jointly as fiduciaries any one of them may sign.

Paid Preparer.—If someone prepares the organization's return and does not charge the organization, that person should not sign the organization's return. Certain others who prepare the organization's return should not sign. For example, the organization's regular, full-time employee does not have to sign.

Generally, anyone who is paid to prepare the organization's tax return must sign the organization's return and fill in the other blanks in the Paid Preparer's Information area of the organization's return.

The person required to sign the organization's return MUST:

- Complete the required preparer information.
- Sign, by hand, in the space provided for the preparer's signature (signature stamps or labels are not acceptable).
- Give the organization a copy of its return in addition to the copy filed with the Department of Taxation.

Trusts' Tax Rate Schedule I

For Periods Prior to January 1, 1999
(Section 235-51(d), Hawaii Revised Statutes)

If the amount on line 8, page 1 is:	*Enter on line 10 page 1:*
Not over $1,500	2% of the amount
Over $1,500 but not over $2,500	$30.00 plus 4% of excess over $1,500
Over $2,500 but not over $3,500	$70.00 plus 6% of excess over $2,500
Over $3,500 but not over $5,500	$130.00 plus 7.25% of excess over $3,500
Over $5,500 but not over $10,500	$275.00 plus 8% of excess over $5,500
Over $10,500 but not over $15,500	$675.00 plus 8.75% of excess over $10,500
Over $15,500 but not over $20,500	$1,112.50 plus 9.5% of excess over $15,500
Over $20,500	$1,587.50 plus 10% of excess over $20,500

TAX COMPUTATION WORKSHEET FOR TRUSTS WITH FISCAL YEARS ENDING IN 1999

1.	Enter the amount from line 10, Part II, of the Tax Computation Schedule on Form N-70NP	**1**	
2.	Number of days in trust's tax year in 1998	**2**	
3.	Number of days on line 2 divided by 365 (or the number of days in the trust's tax year)	**3**	
4.	Tax for the period prior to 1/1/99. Multiply the amount on line 1 by the amount on line 3	**4**	
5.	Unrelated business taxable income (page 1, line 8)	**5**	
6.	Net capital gain taxable to the trust. Enter the smaller of line 16 or 17, col.(b), Schedule D (Form N-40). If this line is zero, **GO TO LINE 13**	**6**	
7.	Difference — line 5 minus line 6	**7**	
8.	Enter the greater of line 7 or $12,000	**8**	
9.	Tax on the amount on line 8. If line 8 is $12,000, enter $670.00	**9**	
10.	Difference — line 5 minus line 8	**10**	
11.	Multiply the amount on line 10 by 7.25%	**11**	
12.	Alternative Minimum Tax. Add lines 9 and 11	**12**	
13.	Tax on the amount on line 5 above using the Trusts' Tax Rate Schedule II below	**13**	
14.	Enter the lesser of line 12 or 13	**14**	
15.	Portion of the tax year in 1999. (1.00 minus line 3)	**15**	
16.	Tax for the period after 12/31/98. Multiply the amount on line 14 by line 15	**16**	
17.	**Total Blended Tax.** Add lines 4 and 16. Enter here and on Form N-70NP, line 10	**17**	

Trusts' Tax Rate Schedule II

For Periods After December 31, 1998
(Section 235-51(d), Hawaii Revised Statutes)

If the taxable income is:	*The tax shall be:*
Not over $2,000	1.60% of the amount
Over $2,000 but not over $4,000	$32.00 plus 3.9% of excess over $2,000
Over $4,000 but not over $8,000	$110.00 plus 6.8% of excess over $4,000
Over $8,000 but not over $12,000	$382.00 plus 7.2% of excess over $8,000
Over $12,000 but not over $16,000	$670.00 plus 7.5% of excess over $12,000
Over $16,000 but not over $20,000	$970.00 plus 7.8% of excess over $16,000
Over $20,000 but not over $30,000	$1,282.00 plus 8.2% of excess over $20,000
Over $30,000 but not over $40,000	$2,102.00 plus 8.5% of excess over $30,000
Over $40,000	$2,952.00 plus 8.75% of excess over $40,000